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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 02 2001

at 11 o'clock and 16 min. AM
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JIM McCONNELL AND MARK EDWARDS,)	CIVIL NO. 96-01111 DAE/KSC
)	(CIVIL RIGHTS)
Plaintiffs,)	
)	STIPULATION REGARDING CONSENT
vs.)	DECREE AND ORDER FILED MAY 5,
)	1997; ORDER; EXHIBITS "A" AND
CITY AND COUNTY OF HONOLULU,)	"B"
)	
Defendant.)	
)	

STIPULATION REGARDING CONSENT
DECREE AND ORDER FILED MAY 5, 1997

WHEREAS, the parties having conferred on the issue of Defendant's compliance and implementation of the Consent Decree and Order filed herein on May 5, 1997 and the revised Transition Plan of September 17, 2001 attached hereto as Exhibit "A";

IT IS HEREBY STIPULATED AND AGREED TO, by and between the parties herein, through their respective counsel, that:

1. The revised Transition Plan of September 17, 2001 is hereby approved. A comprehensive review of the City's progress in implementing the revised Transition Plan shall be conducted after receipt of the Court Monitor's 2002 Annual Report. If,

after reviewing the Court Monitor's 2002 Annual Report, Plaintiffs believe that the City has violated the terms of the revised Transition Plan, Plaintiffs may choose to apply the remedies contained in Section 8 of the Consent Decree and Order to enforce the City's compliance with the revised Transition Plan.

2. The quarterly status reports required by Section 5(a) of the Consent Decree and Order shall be submitted to the Magistrate Judge, the Court Monitor, and the counsel for Plaintiffs in the form attached hereto as Exhibit "B." The Court Monitor will review all quarterly status reports submitted by the City pursuant to this paragraph. The Court Monitor will provide a summary of his review of each quarterly status report to the Court and to counsel for Plaintiffs and Defendant prior to the quarterly conferences required by Section 5(a) of the Consent Decree and Order. In the quarterly reports, the City will identify curb ramp work in the revised Transition Plan that it has since determined to be unnecessary. "Unnecessary" for the purposes of this Stipulation and Order shall mean curb ramps or elements thereof that are either (1) in compliance with ADA requirements, or (2) not technically in compliance with ADA requirements but can still be used by disabled citizens. Corrections to the ramps identified in Item (2) above shall be made pursuant to the new construction/alteration provisions of the ADA. Subject to Section 8(c) of the consent Decree and Order and approval by the Court Monitor and the Court, such curb

ramp work shall be deemed deleted from the revised Transition Plan.

3. The quarterly conferences required by Section 5(a) of the Consent Decree and Order shall include the Magistrate Judge, the Court Monitor, and the parties.

4. The City shall not be required to comply with any procurement laws, ordinances, or rules in order to contract out the construction of the approximately 115 sketch-built curb ramps identified in the City's letter to Magistrate Judge Kevin Chang dated September 17, 2001.

5. (a) The City, in issuing an invitation for bids or request for proposals for the construction of the curb ramps in the revised Transition Plan, may prepare a list of qualified bidders pursuant to Section 103D-310 of the Hawaii Revised Statutes. The City's decision shall be final and conclusive, and prospective bidders who are not included on the list shall not be entitled to protest such decision under Sections 103D-701 or 103D-709 of the Hawaii Revised Statutes.

(b) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract to implement the revised Transition Plan shall not be entitled to protest under Sections 103D-701 or 103D-709 of the Hawaii Revised Statutes.

6. The City shall retain for the duration of the Consent Decree and Order a full-time project manager for purposes of coordinating the City's implementation of the revised Transition Plan.

7. (a) The City and County of Honolulu will complete the curb ramp work for the 7,603 curb ramps identified in the revised Transition Plan, of which 4,591 ramps are identified as Priority I and 3,012 ramps are identified as Priority II, by the end of calendar year 2007.

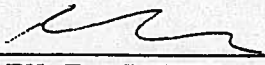
(b) If the City and County of Honolulu does not complete the curb ramp work identified in the revised Transition Plan on an annual basis or the 7,603 total curb ramps by the end of calendar year 2007, or otherwise fails to make adequate progress as determined by the Court Monitor, and such failure is not due to circumstances beyond the control of the City, the Court Monitor may recommend that the Court in its discretion impose appropriate sanctions and penalties.

8. In the event of the City's failure to accomplish the curb ramp work identified in the revised Transition Plan as described in paragraph 7 above, Plaintiffs reserve all their rights granted under Section 8 of the Consent Decree and Order to enforce City compliance with the revised Transition Plan.

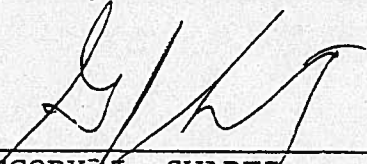
9. The parties agree that Plaintiffs are entitled to an award of reasonable attorney's fees and costs under Section 9 of the Consent Decree and Order. If the parties are unable to agree to the amount, Plaintiffs may file a motion with the Court seeking a ruling on this matter.

10. Except as otherwise provided for herein, all the provisions of the Consent Decree and Order filed May 5, 1997 shall remain in full force and effect.

DATED: Honolulu, Hawaii, OCT 31 2001.



STANLEY E. LEVIN
Attorney for Plaintiffs



GREGORY J. SWARTZ
Attorney for Defendant

APPROVED AND SO ORDERED:

KEVIN S.C. CHANG

JUDGE OF THE ABOVE-ENTITLED COURT

McConnell, et al. v. City and County of Honolulu; Civil No.
96-01111 DAE/KSC; STIPULATION REGARDING CONSENT DECREE AND ORDER
FILED MAY 5, 1997; ORDER

TABLE 1
ADA TRANSITION PLAN SCHEDULE

6-YEAR TRANSITION PLAN SCHEDULE

FY	No. of Int.	No. of Elements*	Est. Cost
	362		\$ 8,766,500
2001	405	1165	\$ 8,792,000
2002	597	1496	\$ 8,765,000
2003	621	1401	\$ 8,760,000
2004	443	1113	\$ 8,795,500
2005	461	1167	\$ 6,707,000
Totals	2889	6342	\$ 50,586,000

*No. of elements (curb ramps) associated with the intersections identified in the Transition Plan.

PROPOSED REVISED TRANSITION PLAN SCHEDULE

PI

FY	No. of Elements (Curb Ramps)						Total
	A	B	C	D	E	F	
2002	660	254	59	237	8	5	1223
2003	457	182	-	817	-	-	1456
2004	24	400	-	193	461	-	1078
2005	-	-	174	-	205	455	834
2006	-	-	-	-	-	-	0
2007	-	-	-	-	-	-	0
Totals	1141	836	233	1247	674	460	4591

PII

FY	No. of Elements (Curb Ramps)						Total
	A	B	C	D	E	F	
2002	62	30	-	21	3	1	117
2003	-	-	-	-	-	-	0
2004	-	-	-	-	-	-	0
2005	8	-	-	-	-	-	8
2006	851	-	-	936	-	-	1787
2007	8	518	63	249	192	70	1100
Totals	929	548	63	1206	195	71	3012

Notes:

1

In conjunction with previously implemented or on-going rehabilitation and resurfacing of streets alteration projects, about 797 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the end of 2002. Another 269 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the City's BRT project.

2

58 additional request curb ramps will be implemented as part of the FY 2002 program and are not reflected in the above schedule.

TABLE 2
PROPOSED REVISED ADA TRANSITION PLAN COST

	1999	2000	2001	2002	2003*	2004*	2005*	2006*	2007*	Total
Des		202	1065	1456	1078	842	1787	1100		7530
Con		95	202	1196	1456	1078	842	1787	1100	7756
\$Des	\$2.4M	\$2.7M	\$3.7M	\$3.9M	\$3.5M	\$2.7M	\$4.7M	\$3.7M		\$27.3M
\$Con/Insp			\$1.1M	\$11.5M	\$10.3M	\$11.7M	\$10.7M	\$11.0M	\$10.7M	\$67.0M
	\$2.4M	\$2.7M	\$4.8M	\$15.4M	\$13.8M	\$14.4M	\$15.4M	\$14.7M	\$10.7M	\$94.3M

*In conjunction with previously implemented or on-going rehabilitation and resurfacing of streets alteration projects, about 797 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the end of 2002. Another 267 curb ramps from FY 2003 to FY 2007 are expected to be implemented by the City's BRT project.

ADA CURB RAMP TRANSITION PLAN IMPLEMENTATION, FY 2002
QUARTERLY STATUS REPORT

Period July 1 to September 30, 2001

Priority	Modification Category	No. of Ramps	Under Alteration Project	Design Status		Construction Status	
				Under Design	Completed	Under Construction	Completed
PI	A						
	B						
	C						
	D						
	E						
	F						
PII	A						
	B						
	C						
	D						
	E						
	F						

Appendix will include TI's.

**ADA CURB RAMP TRANSITION PLAN
IMPLEMENTATION PROGRAM
CITY AND COUNTY OF HONOLULU**

September 2001